

COMMITTEE ON GOVERNMENT REFORM
TOM DAVIS, CHAIRMAN



NEWS RELEASE

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Davis, Issa Demand Answers from Interior On
Missing Price Thresholds in Drilling Leases
Committee Is Investigating Why American
Taxpayers Are Being Shortchanged By \$10 Billion

WASHINGTON, D.C. – Government Reform Chairman Tom Davis (R-VA) and Energy and Resources Subcommittee Chairman Darrell Issa (R-CA) today sent a letter to Interior Secretary Dirk Kempthorne demanding further information from the department on the issue of missing price thresholds in oil and gas drilling leases.

The Committee, led by Congressman Issa's Subcommittee, has been conducting an investigation into the absence of price thresholds in deepwater drilling leases entered between the Department and oil and gas companies in 1998 and 1999. The lack of these price thresholds – which means oil and gas companies are not paying appropriate royalties for some of their off-shore drilling operations – translates into a loss of \$2 billion to the United States so far. The Government Accountability Office estimates the total cost to taxpayers, over the life of the leases, will grow to \$10 billion.

“This is a matter of paramount importance not only for this Committee, but for the American people,” Davis and Issa wrote. “We are concerned, however, that the Interior Department does not share this same sense of urgency.”

The letter details the Congressmen's concerns that Interior Department officials have intentionally withheld information in an attempt to impede the Committee's investigation.

The text of the letter is below:

August 3, 2006

Hon. Dirk Kempthorne
Secretary of the Interior
United States Department of the Interior
1849 C Street, Northwest
Washington, D.C. 20240

Dear Mr. Secretary:

As you may be aware, the Government Reform Subcommittee on Energy and Resources is conducting a formal oversight investigation of missing price thresholds in deepwater leases entered between the Department and oil and gas companies in 1998 and 1999. The GAO estimates that the missing price thresholds have cost the American people nearly \$2 billion to date, and will cost nearly \$8 billion more over the life of the leases. This is a matter of paramount importance not only for this Committee, but for the American people. We are concerned, however, that the Interior Department may not share the same sense of urgency.

On March 7, 2006, Subcommittee Chairman Darrell Issa wrote to then Secretary Gale Norton requesting a significant production of documents in an effort to shed light on why price thresholds did not appear in these leases. (A copy of that letter is attached for your reference.) This request included, among other things, the production of "any records referring or relating to directives, departmental guidelines, orders, instructions, or other communications as to how the leases were to be created, negotiated, reviewed, approved, and signed during the time between January 1, 1996 and December 31, 2000." After systematic delays, we received three boxes of documents. (The leases themselves comprised nearly two of these boxes.) Though we were not convinced that this was an exhaustive production, Department officials repeatedly assured our staff that it was.

Recent conversations with Legislative Counsel Jane Lyder and Lyn Herdt, a Congressional Liaison for MMS, have cast serious doubt on the Department's efforts to comply with this investigative body. Ms. Lyder and Ms. Herdt have given us the impression that the Department may have deliberately withheld critical information from this Committee's investigation. In recent conversations with the Subcommittee staff, they made reference to people who may have ordered the elimination of price thresholds in the deepwater leases. That kind of information is critical to this investigation, especially since Interior officials have testified to the contrary. Yet when asked why the Department did not previously tender that information, they replied that Chairman Issa did not *specifically* ask for it. Ms. Herdt explained that "the Department does not produce the entire refrigerator when only asked for a glass of milk." The original request asked for "the refrigerator." The Department took it upon itself to produce only a "glass of milk."

The Subcommittee has held three oversight hearings at which six Interior officials testified. It has also received testimony from five of the largest oil and natural gas

producing companies in the world. Our primary objective has been to determine if and why the Department made a policy decision to include – and at a later time, exclude – price thresholds from the leases. Ms. Lyder and Ms. Herdt have been familiar with our briefing documents and the purpose of our investigation the entire time. They were present at two of our hearings and Ms. Herdt has been in constant contact with the Subcommittee staff. Thus, the Department, through Ms. Lyder and Ms. Herdt, has been fully aware of our objective since the beginning. That the Department disregarded the clear request of the Subcommittee and has not raised specific concerns, if any, with the request is outlandish. Alas, this is not the only instance of noncompliance.

We believe that the Department may have deliberately withheld crucial information contained in e-mails. In his letter, Chairman Issa also requested any electronic mail regarding the leases. The Department produced twelve e-mails from the entire five-year period. When asked why there were only twelve, Department officials replied that e-mails from that time period no longer exist, and further, that e-mail was not popular or sophisticated in the late 1990s. The Interior Inspector General's office, however, reports that it has reviewed five thousand e-mails from 1998 and 1999 alone regarding the deepwater leases. In other words, the Department produced only twelve out of the thousands of e-mails we asked it to produce.

Though we have made significant progress in this investigation, we are deeply concerned that the Department may have intentionally withheld critical information from the Subcommittee. If this is the case, then it has intentionally impeded this duly authorized Congressional investigation. We do not place blame squarely upon Ms. Lyder and Ms. Herdt, as we realize that they may only be the messengers of an aggressive campaign to frustrate this investigation. Nevertheless, the result is the same: after systematic delays, the Department still has not produced what we have asked.

Accordingly, we ask you again to produce the following:

1. All records referring or relating to the creation, negotiation, review, approval, and signing of leases from January 1, 1996 through December 31, 2000;
2. All records referring or relating to directives, departmental guidelines, orders, instructions, or other communication as to how the leases were to be created, negotiated, reviewed, approved, and signed during the time between January 1, 1996 and December 31, 2000. This includes, but is not limited to, any records referring or relating to any policy decisions, and the persons responsible for making those policy decisions, for the removal of addenda from deepwater leases during 1998 and 1999; and
3. All records referring or relating to directives, departmental guidelines, orders, instructions, or other communication as to how the interim and final regulations implementing the Deep Water Royalty Relief Act of 1995 were to be created, negotiated, reviewed, approved, and signed during the time between January 1, 1996 and December 31, 2000. This includes, but is not

limited to, any records referring or relating to any policy decisions, and the persons responsible for making those policy decisions, for the exclusion of price thresholds from the interim and final regulations implementing the Deep Water Royalty Relief Act of 1995.

Please note that, for purposes of responding to this request, the terms “records,” “communications,” and “referring or relating” should be interpreted consistently with the attached Definitions of Terms. Also note that this definition specifically includes e-mails.

Please submit these documents in electronic and hard copy form, with appropriate indices, by 5pm Eastern Time on Thursday, August 10, 2006 to the Subcommittee office. The office is located at B349C Rayburn House Office Building. Additionally, I ask that you supply this information as it becomes available. In other words, do not wait until you have all the information collected before submitting it to the Subcommittee staff.

If the Department does not fully comply with this production request by the deadline stated above, we will pursue further appropriate action.

Sincerely,

Rep. Tom Davis
Committee Chairman

Rep. Darrell Issa
Subcommittee Chairman

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